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ABSTRACT

The report provides background information on the next reauthorization of the federal Higher Education Act, and is intended for college and university financial aid officers. An introductory section chronicles the history of federal legislation for student financial aid. The next section outlines the congressional reauthorization process, including relevant committees, impact of congressional personnel changes, procedures (hearings, committee markup, floor consideration, conflict resolution), the critical factor of costs, and the role of congressional staff in negotiating legislation. Another section is devoted to factors that can influence the outcome of the legislative process including elections and retirements, emergence of leadership, committee membership, and the president and administration. The current reauthorization climate is then examined, exploring such issues as trends in cost of education, program costs, changes in groups targeted by legislation, grant/loan imbalance, indirect vs. direct loans, gatekeeping and regulatory relief, program consolidation, need analysis system, focus on defaults and quality measures, role of vocational and short-term programs, determination of an allocation formula, system automation, graduate education, remedial education, immigration, and affirmative action. Current and planned reauthorization activities by the National Association of Student Financial Aid Administrators are outlined, its task force members listed, and procedures for communicating with them explained. (MSE)

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Building for Reauthorization

Background and Analysis

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July 1996



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National Association of Student Financial Aid Administrators

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Dear NASFAA Member:

Building for Reauthorization: Background and Analysis is the first of several documents you will receive in the coming months to facilitate your work in the reauthorization process. These documents are designed by NASFAA's Reauthorization Task Force and staff to provide background, context, issues assessment, political climate, postsecondary industry, and other reauthorization information and data. This renewal of the Higher Education Act will authorize student financial aid programs into the next century.

We urge each NASFAA member to review this report so that you will be better prepared to become an active participant in the reauthorization process. With your full participation, we believe we can look forward to an improved system of financial aid benefiting all of our students and schools. As a financial aid administrators' organization, NASFAA will work with our sister organizations here in Washington. The NASFAA membership, however, has a special insight into some of the most critical areas affecting students and schools across the nation. For this reason, NASFAA members should accept a special obligation to students, institutions and each other to respond to all issues and requests for comment surrounding this next HEA reauthorization. In addition, if past reauthorizations are any measure, it will most likely be the financial aid administrator who will enjoy the benefit, or suffer the failure, of the next reauthorization so it will be in your best interest to become an active partner in the process.

Due to the upcoming elections and other uncertainties, our work may mean the initial reauthorization process will be heavily frontloaded for us and may be more complicated than the usual reauthorization. NASFAA intends to develop its proposals for delivery to the Congress in early 1997. Consequently, this time the process demands an even faster response by you in developing your ideas and recommendations and, then, monitoring the Congressional legislative process. We look forward to your full participation and stand ready to assist you in your reauthorization efforts on behalf of student, parents, schools, and taxpayers.

Sincerely,

Dallas Martin
President

John Curtice
Reauthorization Task Force Chair

Building for Reauthorization: Background and Analysis

Introduction

Building for Reauthorization: Background and Analysis, gives background information on the next reauthorization of the Higher Education Act (HEA). It is the first in a series to assist you in your reauthorization efforts. The NASFAA Reauthorization Task Force needs all your contributions so that NASFAA forwards its best recommendations to the Congress. Through this coordinated effort, we believe laws can be developed that will be better able to assist students and their families in financing their education, help schools deliver student aid funds more efficiently, and safeguard the interests of taxpayers' who provide the funding.

This NASFAA publication begins with an overview of previous reauthorizations. Then, it is divided into four subparts. Subpart One is a legislative primer. Subpart Two discusses factors that may influence the legislative process. Subpart Three speculates on possible reauthorization issues. Finally, Subpart Four addresses the activities of NASFAA Reauthorization Task Force and how you can be a part of the reauthorization process.

You will shortly receive a second NASFAA resource document which describes Title IV and Title IX programs and summarizes major and significant changes made in the HEA during the last reauthorization in 1992.

History

The National Defense Education Act, enacted in 1958, established the oldest of today's federal student aid programs, the National Defense Student Loan (NDSL) Program, or, as it is called today, the Federal Perkins Loan Program. Six years later, another of today's campus-based programs, the College Work-Study Program, now named the Federal Work-Study Program (FWS), was created as a part of the nation's "War On Poverty" initiative. These two student assistance programs were combined, along with the Educational Opportunity Grant Program, now the Federal Supplemental Educational Opportunity Grant (FSEOG), and the Federally Insured Student Loan Program (essentially to be supplanted by the Guaranteed Student Loan Program now named the Federal Family Education Loan [FFEL] Program), becoming Title IV of the Higher Education Act of 1965. It was enacted as Public Law 89-329 when signed on November 8, 1965 by President Lyndon B. Johnson, at Southwestern Texas State University. Subsequent legislation has given us the current structure of programs and provisions from which we begin the next reauthorization.

Reauthorization is the process used by Congress, first, to extend and review an expiring Higher Education Act and, second, change the law by adding new legislative language guiding program operations, by creating new programs, or by eliminating certain legislative provisions or programs. The revised legislation establishes authority for

federal appropriations to be made and permits federal agencies to administer and regulate specific programs, activities, or procedures. Authorizing legislation can originate in either the House or the Senate. Without an authorization, the Congress cannot appropriate funds for a specific federal program or activity.

Since 1965, comprehensive reauthorization of the Act has occurred through:

- ◆ the Higher Education Amendments of 1968 (P.L.90-575);
- ◆ the Education Amendments of 1972 (P.L.92-318);
- ◆ the Education Amendments of 1976 (P.L.94-482);
- ◆ the Education Amendments of 1980 (P.L.96-374);
- ◆ the Higher Education Amendments of 1986 (P.L.99-498); and,
- ◆ the Higher Education Amendments of 1992 (P.L.102-325).

The 1972 HEA reauthorization saw the creation of a new program, championed by President Richard M. Nixon and Senator Claiborne Pell, (D-Rhode Island)--the Basic Educational Opportunity Grant Program (BEOG), now named the Federal Pell Grant Program. The 1976 reauthorization not only extended and expanded Title IV authorizations but provided for the processing of need analysis information by multiple data entry processors (MDEs) and encouraged that a guaranty agency be operational in each state. The 1980 reauthorization continued the expansion of eligibility for student aid. The legislation made major changes in the need analysis methodologies, expanded student eligibility criteria, and established the Parent Loans for Undergraduate Students (PLUS) Program. The 1986 HEA reauthorization improved the student aid programs at the margins and federalized the need analysis system.

The 1992 HEA reauthorization expanded Title IV eligibility, consolidated the need analysis system into one methodology, and provided not only subsidized, but, also, expanded unsubsidized Stafford Loans. The 1992 HEA reauthorization bill created a demonstration project for the delivery of loans directly to schools. However, the next year, the Congress and President Clinton developed a program of direct lending to postsecondary institutions called the William D. Ford Federal Direct Student Loan Program (Part D) that was designed to phase-in and replace the FFEL Program. After the 1994 Congressional elections, the very existence of direct loans was in doubt as the new Republican majority attempted to scale back Part D program loan volume.

With the passage of congressional Budget Resolutions, calling for a balanced federal budget in seven years, 1995 saw an unprecedented move in the Congress to reduce Title IV funding and repeal certain student loan subsidies. At the same time, the Republican Congress intended to protect some key programs, such as the Federal Pell Grant Program, by freezing funding at FY-95 levels. But, such a freeze in the mega-accounts of a seven-year Budget Resolution meant no growth during that period to account for inflation, for growth in eligible student populations, or substantive increases to meet rising college costs. Actions to cut the student aid programs and erase student loan benefits were turned

back, especially in the Senate, when moderate Republicans joined with Democrats to modify or lessen the severity of such budget cuts. When the dust cleared in the Spring of 1996, the advocacy efforts of students, citizens, and college officials prevailed when the FY-96 Omnibus Appropriations bill raised the Federal Pell Grant maximum award to \$2,470, its highest level ever. The campus-based FSEOG and FWS Programs were frozen at their FY-95 levels. Only the State Student Incentive Grant (SSIG) and Federal Capital Contributions (FCC) for the Federal Perkins Loan Programs were reduced from their FY-95 appropriations. Finally, student borrowers lost none of their loan subsidies or benefits when the Congress and President closed the books on FY-96. It remains to be seen what outcome will result for FY-97 as the Congress and President Clinton tussle over spending for education programs.

Many major changes in the HEA occurred in the reauthorizations listed above. Numerous other statutes and technical amendments also significantly modified the Act since 1965. For example, the Student Loan Reform Act of 1993 (P.L.103-66) profoundly changed the direction of loan delivery--creating a large-scale direct loan program that some proponents intended to supplant the FFEL Program. The previous year's HEA reauthorization provided for a direct loan program demonstration program.

Since the creation of the Higher Education Act, scores of other legislative vehicles, such as, amendments, appropriation bills, reconciliation bills, and freestanding legislation became law which changed or suspended specific HEA provisions. For example, a 1982 amendment to a Defense Department authorization bill mandated that those required to register with the Selective Service System do so or lose Title IV eligibility. As another example, in the FY-89 Appropriations bill for the Department of Education, the Congress suspended, for one year, the use of professional judgment by aid administrators for the Federal Pell Grant Program. Financial aid administrators and other campus officials have well-justified frustrations over an Act that is changed almost annually. Many only wish the Congress and President would call a timeout in postsecondary education lawmaking providing a small measure of stability in program requirements, regulation writing, and operations. However, reauthorizations are timely opportunities to review the HEA and achieve positive changes. Through its Reauthorization Task Force, NASFAA members have an opportunity to forward to Washington decision-makers their hopes and aspirations for a reformed HEA which will better serve students and families, and, improve the system to better serve our schools.

The HEA expires on September 30, 1997 (Fiscal Year 1997). The 1992 reauthorization authorized the forward-funded and entitlement Title IV programs for five years, from the 1993-94 academic year through the 1997-98 academic year. Neither discretionary appropriations nor entitlement funds for Title IV and Title IX programs could be released after the HEA's expiration. Thus, Federal Pell Grant and campus based program funding would not be available for student awards after that September 30, 1997. Also, the entitlement loan programs, FFEL and Direct Loans, could not be released to student borrowers after the Act's expiration.

Section 414 of the General Education Provisions Act (GEPA) automatically extends the HEA for one year unless one House of Congress acts to prevent it. Recent Congresses have used the GEPA extension, and the 105th Congress is expected to do so as well. The HEA reauthorization must be completed no later than September 30, 1998, however, the legislative process begins up to eighteen months before that date. If a reauthorization bill is not approved by that date, either the Congress and the President can agree on a short-term extension to gain time for a more comprehensive overhaul or the HEA authorized programs expire. Expiration would mean no further appropriations for the Federal Pell Grant, campus-based, or Title IX programs, and no Federal Part B or Part D program loans would be issued to eligible borrowers.

Subpart One

The Congressional Reauthorization Process--A Primer

The Committees

Much of the important work in a HEA reauthorization is accomplished by the congressional authorizing committees. The authorizing committee in the House of Representatives is the Committee on Economic and Educational Opportunities. The Senate's authorizing panel is the Committee on Labor and Human Resources. Each of these full committees has a subcommittee responsible for the HEA. In the House, this is the Subcommittee on Postsecondary Education, Training and Life-Long Learning. The Senate counterpart is the Subcommittee on Education, Arts and the Humanities. It is at the subcommittee level, rather than at the full committee level, where oversight hearings are conducted and the reauthorization bills are first considered and acted upon.

The Players

Familiar faces are missing from key congressional committees due to retirements and election defeats. Authorizing committees have been affected by the loss of several members with previous reauthorization experience. This fall's election may have further consequences for future leadership positions. The outcome of this reauthorization will be influenced by the composition of the Congress, including which party is in power. Even if Republicans control both bodies of the Congress, their process to determine chairs of various committees and subcommittees will affect this reauthorization. Finally, the voters will choose either Bob Dole or Bill Clinton for President. That decision profoundly affects the HEA reauthorization. All, or some, of the elements of the political process and line-up of key committee and subcommittee members and chairmanships are interactive and important in determining this reauthorization's direction. Personalities matter. They matter for the respect and power a chairman or chairwoman has to effectively lead their colleagues. They matter in terms of the interests, priorities, and prejudices a Member of Congress brings to the formulation of reauthorization legislation. Personalities matter for the individual tone and workload that the subcommittee and full committee chairs set for

colleagues in their legislative work. Having stated this, this document later discusses specific congressional personnel changes and the impact those changes may have on the process.

The Process Begins with Hearings

In recent years the formal reauthorization process has started with House oversight subcommittee hearings on the Higher Education Act. The subcommittee leader has wide discretion and determines the number, topics, location, and who will or will not testify at such oversight and investigative hearings. Unless the House rules change, the minority has the right to schedule at least one witness at a hearing, although informal agreements usually allow more than one. In the Senate, the committee chair decides who may testify usually in consultation with other Senators. The House has historically conducted a greater number of hearings and, naturally, heard from more witnesses than the Senate. Senate reauthorization hearings were also comprehensive in the scope of their topics and interests; the Senate panels simply consist of fewer members. Senators, while no less productive than their House counterparts, generally, are spread thinner serving on more committees and subcommittees than House members do in their chamber.

In the 1992 reauthorization, the House Postsecondary Education Subcommittee (now renamed the Subcommittee on Postsecondary Education, Training and Life-Long Learning) held 44 hearings; listening to 447 witnesses with field hearings in 18 states. Forty witnesses were financial aid administrators, and NASFAA witnesses testified on seven occasions. The Senate Education, Arts and Humanities Subcommittee held 19 hearings with nearly 190 witnesses and had hearings in eight states. More than 20 student financial aid administrators testified and NASFAA presented its organizational views and recommendations before the Subcommittee three times.

Assuming use of the GEPA extension, and target completion date of September 30, 1998, congressional hearings may begin in the Spring of 1997. Most hearings probably will be held in Washington, D.C. Hearings conducted outside of Washington will be scheduled in the home districts or states of subcommittee members. The hearings portion of the legislative process will span a period of several months.

At the hearings, individuals and representatives of organizations present their reauthorization views and recommendations. Hearings provide Members of Congress an opportunity to identify HEA provisions that are working effectively as well as those needing modification or elimination. Witnesses at hearings inform subcommittee members about various aspects of program operations, including changes to enhance a current program's scope or efficiency, new programs, activities, or legislative initiatives necessary to meet contemporary challenges or concerns, and legislative provisions that should be repealed. Witnesses may present data supporting a change in the law or about environmental factors in a given topic area, such as, in the case of the HEA reauthorization, information on enrollment trends or the ability of parents to meet college

expenses.

Committee Markup

When the hearing process concludes, the subcommittee leaders, members and their staff aides develop a reauthorization bill. This initial bill usually is subject to some horse trading among the members where each seeks to have pet projects or provisions added (or sometimes deleted) from a draft version. Often an initial draft goes through several iterations as members refine it. At the conclusion of this non-official bill drafting process, the subcommittee chairman releases the bill (a.k.a. the "Chairman's mark") which becomes the model legislation from which other formal changes, additions, or deletions are made during committee markup sessions.

Such a bill need not be formally introduced in either chamber, since the chairman's mark can serve as a markup vehicle. After the bill is released the subcommittee marks it up. A "markup" is the process, at an official meeting of a subcommittee or full committee, where a bill is reviewed in detail.

Legislative language can be added or deleted by amendment to meet the concerns of individual members. Amendments can be debated. Oftentimes, members or staff aides pre-negotiate an amendment making changes to gain support from other subcommittee or full committee members or from the committee chair. Consequently, many amendments are accepted with little debate.

Ideas for amendments come from the Representative, Senator, or their staff aides to address their interests regarding a particular legislative provision or policy concern. Ideas for amendments come to members and staff from local constituents. Ideas for amendments come from Washington-based associations or other lobbyists. And, changes in the HEA sometimes are based on "horror stories" heard by the legislators or their staff aides. Such amendments are offered as a sincere response to a reported problem which may or may not be accurate. And, horror story amendments far too frequently result in an overly prescriptive approach to solving a perceived problem. If informal efforts to find an acceptable amendment fail, then the amendment is debated and brought to a vote.

A vote on an amendment can be demanded at any time in a subcommittee or committee markup session, but usually occurs after an amendment's debate concludes. Most votes are taken by a voice vote for which the subcommittee chair asks members to vote aye or nay and determines the outcome based on their judgment of the strength of each combined response. Many times controversial amendments are voted on by a "roll call vote" for which each subcommittee or committee member in response to the reading of their name by the committee clerk votes aye, nay, or, more rarely, present. The votes are tallied and the result announced. Roll call vote results are public information.

Many members who lose an amendment vote are persistent offering the same amendment

at each level of the legislative process. If they lose a subcommittee vote, then they offer the amendment at a full committee markup session. If they lose in a full committee markup, then, if the rules allow such an amendment to be offered, they offer it during floor debate. Often, if a member loses a vote, or expects to lose a vote, they try to negotiate with their opponents a satisfactory amendment that can be accepted at the next level in the legislative process. When totally stymied in one body, say the House, that Representative may attempt to have a friendly Senator offer his or her amendment to the companion bill in that chamber so that the amendment survives to be discussed by a Conference Committee.

A subcommittee markup may take hours or several days to complete, depending on how many changes members wish to make. At the conclusion of the markup, the bill is voted on by the subcommittee. If agreement is reached, the bill is forwarded to the full committee for consideration.

A full committee markup usually occurs within a few weeks of final approval by the subcommittee. Further adjustments may be made at this time. If there has been general agreement on a bill's merits at the subcommittee level, these changes typically are minor, technical ones. If there was no such consensus, the likelihood increases that major changes occur at a full committee markup. Many times controversial amendments are withheld during subcommittee consideration to surface during a full committee markup. Withholding an amendment allows its sponsor time to negotiate an acceptable compromise or force a vote at a full committee markup session where the legislator believes victory may be easier or since the amendment's sponsor may have convinced lobbyists to pressure other members.

Normally, after a committee reports a bill and prior to floor debate, the Committee releases a report that describes and explains the legislation. The Committee Report may contain a "minority views" section which gives members an opportunity to dissent from particular provisions of a bill or object entirely to the bill's purpose.

Costs Can Be An Issue

Before a reauthorization bill is considered for floor action the Congressional Budget Office (CBO) issues a report on the bill's cost, a report which is required of all bills reported by congressional committees. The CBO estimate compares the legislation to current law. If a bill increases program costs, offsetting reductions or revenue increases must be made so that the bill is cost neutral. Without offsetting changes the bill is subject to challenge as violating the requirements of the Budget Act. This cost neutrality provision is commonly known as "Pay/Go." If a bill is not paid for, then it may not go forward unless the Budget Act provisions are waived, an almost impossible legislative task.

A bill's cost can become a critical factor either at committee markup or prior to the bill

reaching a chamber's floor for debate. Budget considerations played a significant role in the 1986 and 1992 reauthorizations. In the 1992 HEA reauthorization, the Education and Labor Committee's (now named the Committee on Economic and Educational Opportunities) bill included a provision to make the Federal Pell Grant Program a true entitlement. The legislation was about to be considered by the House Rules Committee. Just before Rules Committee action, the Congressional Budget Office (CBO) issued its report on the bill's cost.

The CBO estimate revealed that the House bill could be challenged on the grounds that it violated the Pay/Go section of the Budget Act. That Budget Act challenge, likely to be successful, would have severely delayed the 1992 HEA amendments. Since committee leaders lacked support and wanted to forestall a Budget Act challenge, the House Democratic and Republican authorizing committee members agreed to a "committee amendment" eliminating the Federal Pell Grant Program entitlement provision. Even so, the House authorizing committee still needed approximately \$1 billion more in savings to avoid a Budget Act challenge. To avoid a floor debate parliamentary confrontation, the authorizing committee bipartisan leadership agreed to further student loan origination fee changes.

Floor Consideration

After full committee approval, a bill is scheduled for House or Senate floor action. In the House, the bill must have a rule issued by the Rules Committee--the House's traffic cop. This committee decides when and what bills reported by committees will come to the House floor for debate and the rule determines whether all, some, or no amendments, may be offered to the bill.

Senate-committee reported legislation does not pass through the Senate Rules Committee. Instead, the Majority Leader, his leadership team, and the majority committee chair decide the timing of floor action in that body. Unlike the House, Senators, who object to the bill or to certain provisions, may utilize an informal system to delay consideration of a bill by placing what is called a "hold" on a bill. Supporters of the legislation negotiate changes in the legislation or negotiate a procedure for consideration of amendments to the bill with the Senator who placed a hold on the bill. If such negotiations are successful, the hold is withdrawn and floor consideration goes forward.

Bills customarily gain floor approval with fairly limited debate. Controversy can extend floor debate or result in bill changes. When a bill is approved by one body of Congress, it is forwarded to the other body for consideration. For minor or non-controversial bills, the legislative body that receives an approved bill often passes the bill without changes and sends it to the President to sign or veto. This "pass-the-House and pass-the-Senate unchanged" procedure has been used for minor changes to the HEA, but never to reauthorize a Higher Education Act Amendments bill.

Working Out the Differences

Once bills gain floor approval, conflicting House and Senate legislative provisions are resolved by a "Conference Committee." A Conference Committee is a meeting of "Managers" from each chamber appointed to reconcile differences in a piece of legislation. During a Conference Committee's deliberations, new provisions generally aren't introduced, but Conferees may develop compromise language different from either of the original House or Senate bills. Identical legislative provisions are not "conferenceable." Occasionally, however, a legislative provision common to both bills is dropped. In this instance, each side "recedes" to the position of the other body--in effect killing the provision. During Conference Committee deliberations, if the House Conferees approve of a Senate provision, the House recedes to the Senate, or vice versa. Oftentimes, one body recedes to the other body "with an amendment." Receding or receding with an amendment is the process by which the original language in either bill is accepted or modified to its final legislative form. The Conference Committee ultimately issues a "Statement of Managers" or "Conference Report" explaining the agreement and containing "Report Language." Report Language assists or guides the federal agency administering a program.

In the next step in the process, the Conference Committee bill is approved by both houses of the Congress and signed by the President to become law. If the President vetoes the Conference Committee bill, then each legislative body must vote to override that veto, garnering a two-thirds majority to be successful.

The Staff Role

Congressional staff play a key role in the reauthorization process and, especially, in the decision-making process of the Conference Committee. The HEA is a complex law. In the last two HEA reauthorization Conference Committees, staff aides negotiated the bulk of the bill. For example, in 1992, there were approximately 1,500 student aid items in disagreement between the two bills. Staff negotiated the final legislative language agreements in all, but approximately two dozen of those items. Conferees met in formal Conference Committee sessions to settle the differences staff could not agree to and ultimately sent a dozen items back to staff for resolution. Conference Committee members do not have the time or specific expertise to work out the massive numbers of differences between House and Senate HEA reauthorization bills, however, depending on their interests, many members do become expert on particular parts of HEA.

The congressional workload has become heavier with more complex legislation to deal with. Since time is at a premium, Members of Congress increasingly rely on their staff aides, who must understand and deal with complex issues working through the nitty gritty of bill language.

Compared to two decades ago, congressional staff, not only in a Conference Committee

environment, but throughout the legislative process have augmented roles and responsibilities. Most staff aides have an intuitive understanding of their boss' interests and are wise enough to follow specific instructions in negotiating legislation. Some bills, such as, Higher Education Technical Amendments, however, are almost wholly staff-negotiated. Other bills, while staff clear away the underbrush, have heavy Member involvement. For example, the Student Loan Reform Act of 1993 Conference Committee Members negotiated day after day. The next reauthorization will not see any lessening of the importance of congressional staff aides at all steps in the legislative process.

One final point about staff aides. Even before the elections and before the 105th Congress organizes, we know the expected reauthorization staff includes no one who was in a staff leadership position with primary responsibility for the 1992 HEA reauthorization. A few participated in that process four years ago, but did not staff the leading authorizing subcommittee or committee chairs.

Subpart Two

Factors That May Influence Outcome of Reauthorization

Many observers believe timing is a critical component of the congressional/executive reauthorization process. Yet, the importance of timing oftentimes is an overlooked factor subtly shaping and defining a legislative outcome. Timing will be no less an important ingredient in the next HEA reauthorization.

As the postsecondary education community and, especially, as NASFAA's members build for reauthorization, we need be mindful of the influences of timing, process, politics, and personalities. While cognizant of such factors, we need not give them primary importance as we develop those recommendations that we believe best serve students, families, and postsecondary institutions. The political process impacts the reauthorization, but reauthorization policy directions and program requirements should be our dominant concern in developing positive legislative solutions and, then, lobbying to influence the reauthorization bills.

Elections and Retirements

The election cycle affects reauthorization. It is important to understand the differences, current and potential, in the leadership and composition of the authorizing committees and Executive branch. Since the 1992 reauthorization many familiar legislators will not be active in this reauthorization and others may assume new roles.

An enormous amount of institutional memory, both Member and staff, of past reauthorizations will be missing because of retirements and election defeats. Without this memory, Members may propose legislative solutions which failed earlier or, without the knowledge or understanding of the nature of the postsecondary education industry,

propose uninformed legislative solutions.

Inexperience in crafting legislation and understanding that process can be overcome, but a knowledge of the Act's history and of past policy debates and trends in the industry can hamper development of a sound legislative package.

A certain degree of predictability and comfort in the process will be missing. All of these factors lead this reauthorization to be one of opportunity and, at the same time, one of anxiety.

In the House, former House subcommittee and full committee chairman, Rep. William D. Ford, D-Mich., has retired. Ford presided over several HEA reauthorizations and powerfully left his stamp on the HEA. Rep. Tom Coleman, R-Mo., was defeated in 1992. Coleman was Ford's subcommittee ranking minority member and who, while working closely with Chairman Ford, nonetheless was a voice of restraint. Rep. Steve Gunderson, a moderate Republican from Wisconsin and a leading advocate of extending Title IV educational opportunities to part-time students, is retiring. Also retiring is former postsecondary education subcommittee chairman, Rep. Pat Williams, D-Mont. Williams was a forceful defender of the federal student aid programs. Rep. Jim Jeffords, a moderate Republican from Vermont, who last time was the ranking minority member on the full committee, has moved to the Senate.

On the Senate side, Senator Claiborne Pell, D-Rhode Island, after whom the Federal Pell Grant Program is named, is retiring. Pell, a senator who some unwisely underestimate, was responsible since the late 1960s for all postsecondary education legislation when Democrats controlled the Senate. Senator Nancy Landon Kassebaum, R-Kansas, is retiring. The current authorizing committee chairwoman, Kassebaum, with her unassuming ways is respected by her peers for her calm, but effective, legislative skills. She was able to soften, or defeat, some of the more extreme postsecondary education proposals from her majority colleagues. Senator Paul Simon, D-Illinois, a former House postsecondary subcommittee chairman, and the Senate's leading advocate for direct lending also will retire. The absence of these individuals in the next reauthorization may profoundly affect the process. Certainly, the absence of these influential House and Senate members on the course of the next reauthorization will be noticed. Finally, this Fall's elections may affect the composition of the authorizing committees if certain expected authorizing committee leaders or members are defeated.

Future Leaders

The lineup of expected authorizing committee leaders may change after the elections. Further, those we anticipate to lead the authorizing subcommittees or committees may not choose, or may not be chosen, to head such panels. In the House, if Republicans maintain control, Rep. William F. Goodling, R-Pa., is expected to continue to chair the Committee on Economic and Educational Opportunities. Many believe Rep. Howard

"Buck" McKeon, R-Calif., will remain as chair of that committee's authorizing subcommittee. Rep. Bill Clay, D-Mo., is expected to continue as ranking minority member of the full committee. The ranking minority member of McKeon's subcommittee is in doubt with Rep. Pat Williams' retirement. At least three Democrats are possible candidates for the job.

If Republicans maintain control in the Senate, it is expected that the current education subcommittee leader Sen. Jim Jeffords, R-Vermont, will replace Kassebaum as full committee chairman. Sen. Ted Kennedy, D-Mass., likely will continue as the ranking minority member of that panel. With the retirement of Senator Pell and with the probable elevation to full committee chair of Senator Jeffords, it is too early to predict with any certainty which senators become either authorizing subcommittee chair or that panel's ranking minority member. One possibility for subcommittee chair is Sen. Dan Coats, R-Indiana. For ranking minority member, some believe Sen. Chris Dodd, D-Conn, will take the job.

Of course, for both the Senate and the House, if Democrats take control of one or both of those chambers, then these House and Senate leadership positions as just described would reverse.

The Followers?

The membership of the authorizing subcommittees and full committees is as important as who fills a panel's leadership positions. Subcommittee and full committee members can play pivotal roles in forging the next reauthorization legislation. Subcommittee and committee memberships will be determined by those Members elected this Fall, and by congressional leaders who make committee assignments. After the 1996 elections, over one-half of House members will have served in that body since only 1990. The turnover in the Senate has been dramatic, too. But, in recent history few times approach the current massive change in the Congress, not only in terms of raw numbers, but also in political philosophy and approach to government.

When it comes to a major reauthorization, typically in the House, the responsible subcommittee's membership increases. Senate subcommittee membership numbers are more stable. Due to current uncertainties, it difficult to speculate with any accuracy what issues or concerns will surface in the next reauthorization. The reauthorization panels are an accident of timing and dependent on the will of voters. But that happenstance is significant in shaping a reauthorization.

The President and Administration and Congress

This is the only HEA reauthorization where a presidential and congressional election comes in the middle of the postsecondary education communities' planning, design, and strategy process. The complications of not being able to identify who will comprise the

congressional leadership and membership of the authorizing committees, what party will control the White House and Congress, and the probable agenda or issues that may emerge all complicate reauthorization planning, timing, and tasks. The President and the political party controlling the Congress after the elections will have a major effect on the reauthorization process. These factors will have interactive influences on the process and final legislative product.

A change in Administration with a Senator Dole victory may delay the process as the Department of Education's leadership from the Secretary's job on down is named, confirmed, and begins work. A President Dole Secretary of Education no doubt would place a very different stamp on a reauthorization bill that now is being developed by Clinton political appointees. Further, if there were a Republican in the White House and if the Congress remained under Republican leadership, then one might expect the authorizing committees to be more responsive to the legislative recommendations of their White House and cabinet agency leaders than to a Clinton Administration agency.

If the electorate decides to reelect President Clinton and the House and Senate remain in Republican control, then a different set of reauthorization dynamics may dominate. Another dynamic would rule if Senator Dole wins, but the Congress is controlled by the Democratic party. Finally, should either a Republican or a Democrat win the White House and, either just the House or just the Senate stays in the Republicans' hands and the other body is controlled by Democrats, then an unpredictable reauthorization synthesis can come into play depending on which party controls what branch of the Congress or the White House. Of course, if a third party candidate wins the White House, don't even try to guess the political maneuvering or outcome of the reauthorization process.

Finally, if the above scenarios were not enough to confuse the political outlook or structure of the process, consider the possibility that margins of party control in one or both legislative chambers are small. For example, say in the Senate, that Republicans control 51 to 49 and, in the House, Democrats control 221-214. Once a higher education bill reaches each floor for debate and amendment, without strong party leadership and discipline which usually is not present in the floor amendment process, the chances for passage of undesirable amendments increase as coalitions of members form and reform. Further, a numerically slim majority control of authorizing subcommittees or full committees could complicate the plans of those panels' leaders in markup sessions. Depending on the circumstances, a slim majority control, in markup sessions or on the floor, may work either to the postsecondary community's advantage or disadvantage.

Subpart Three

The Current HEA Reauthorization Aid Climate

Many issues may impact the forthcoming reauthorization and the climate in which we will be operating. Unlike previous reauthorizations, the financial aid community has not

yet identified concepts, proposals, or issues for change and predicting the issues or concerns that will emerge from the process is difficult. NASFAA and the other higher education associations have an opportunity to chart the direction and outcome of the legislation and legislative process both in the Congress and in the Administration. Some potential factors are briefly discussed.

Cost of Education

The American public recognizes the value of education and the quality of our schools but many do not understand why an education costs what it does and why costs continue to rise. Opinion poll and focus group results show an anger about college costs, often shaped by articles and broadcasts showcasing costs at the high end of the college cost spectrum. Washington policy-makers may respond by tying student aid policies to college costs--through cost control provisions or an incentive program. Unpredictable as the solution may be, the cost of a postsecondary education will be high on the agenda of policy-makers.

Program Costs and Retargeting

Congressional debates over balancing the federal budget have brought student aid program financing into the spotlight. The higher education community, students, families, and campus officials rallied and created a political counterweight to those in the Congress who desired to freeze, eliminate, or scale back either federal student aid programs or student benefits. This debate continues and further efforts to cut program costs are likely.

Many argue that faced with reduced funding opportunities, the federal government should target its limited student aid resources on those individuals in most need of financial help and not spread resources to less deserving middle-income families and individuals. This targeting interest may manifest itself in proposals to front-load grants and provide access. Other policy makers advocate the government return to its early, historical role of providing grant resources first to those whose abilities to fund a postsecondary education are limited. They argue access, for middle-income families and students, should be furnished by student loans. And, the level of loan subsidies is open to debate say many of these policy analysts and many in Congress who last year proposed elimination of the in-school interest and other student loan subsidies and benefits.

The Budget Act provision commonly called "Pay/Go" controls mandatory program costs. This provision mandates that if the Congress wished to raise federal student loan limits, then those increased costs must be offset by other program reductions or revenues.

Grant/Loan Imbalance

As in the 1992 HEA debates, increasing student loan burden and the grant/loan

imbalance again may be the focus of attention. Since the 1992 reauthorization, the grant/loan imbalance has widened significantly as students and financial aid administrators understand only too well. Most 1992 HEA changes were in the loan programs which, in a small way, reflects a change of congressional interest from grant and work programs to a concern for the loan programs, student borrowers, and defaults. The Federal Pell Grant and campus-based program appropriations have scarcely grown since 1992.

FFEL/Direct Loans

The delivery of student loans will focus debate as the Congress decides the fate of the Ford Federal Direct Loan Program and the Federal Family Education Loan Program (FFEL). Apparent options are to: 1) end the Direct Loan Program; 2) phase-out the FFEL Program in favor of Direct Loans; 3) develop a hybrid student loan program with elements of both the Direct Loan and FFEL programs; or, 4) continue the status quo of competing programs.

Gatekeeping/Regulatory Relief

Gatekeeping and regulatory relief may emerge as reauthorization issues. The Department of Education has examined both issues, but is limited in what can be accomplished with regulatory power alone. Legislative changes are necessary to bring schools broad relief from burdensome regulations and to modify school eligibility for Title IV participation. As in the 1992 Amendments, accreditation, state postsecondary review measures, and standards of financial responsibility also may be investigated.

Program Consolidation

Some in Congress are interested in consolidating the student financial aid programs, arguing that the time has come to provide for only one grant, one loan, and one work-study program. Others suggest that all or a portion of the student aid programs be consolidated into a block grant provided either to states or to institutions to spend on student aid.

Need Analysis

Since the Congress federalized the need analysis system two reauthorizations ago, it is expected that federal lawmakers' interest in modifying portions of the need analysis system will continue. At this point, there are few need analysis issues that are prominent in congressional thinking as in the last reauthorization when hot topics for policy makers were melding the Federal Pell Grant and Part F methodologies or eliminating the formula's consideration of home equity.

Defaults and Quality Measures

Many federal lawmakers will continue to focus on reducing defaults despite a decline in default rates from 22.4% FY-90 to 11.6% in FY-93 and despite the fact that scores of schools lost loan eligibility after breaching the HEA's cohort default rate triggers. Efforts to develop other standards to measure institutional outcomes, allied with default concerns, may tie receipt of federal funds to quality measures.

Vocational/Short-term Programs

Economic development and "human infrastructure" issues may emerge in reauthorization. While the meaning of economic indicators can be endlessly debated, public opinion, as expressed in polls and focus groups, portray a deep-seated anxiety over job security and wage stagnation.

Such anxiety may be expressed by legislative efforts focusing anew on short-term vocational programs. Proposals may modify the current student aid programs so that short-term vocational training would be contracted by the government with schools that have a proven record of program training, completion, and placement. Other proposals may demand separate regulations for non-degree/certificate programs or recommend that vocational programs be administered by the Labor Department. Others believing the current arrangements for vocational education and the Title IV programs are satisfactory will argue that the type of program a student elects to pursue should not, in and of itself, eliminate the person from being eligible for Title IV funds if the student can demonstrate financial need. They note that Congress decided to make qualified, short-term career education programs eligible for assistance in 1972 and any problem solutions should focus, therefore, upon developing reasonable performance standards to evaluate and distinguish between those programs which perform well and those that do not.

Should this issue arise it is important, not only for students and affected schools, because the Congress too often designs solutions to solve problems at a few schools and enthusiastically applies such solutions to all schools. This approach commonly is called "using a sledge hammer to drive a tack."

Allocation Formula

Some financial aid experts are calling for a reexamination of the campus-based allocation formula. They argue that this formula has not been seriously reviewed in many years and it is time to research whether or not campus allocations are fair and target funds on schools serving financially deserving students.

Technology

The 1992 HEA reauthorization legislation did much to encourage the use of new technologies in the student aid programs from data matches to information systems to streamlining the application process. Reauthorization attention may again center on technology issues. Many in higher education laud the efforts of the Department of Education, as it responds to congressional pressures, to more highly automate the system. But, even before the 1996 FASFA processing problems, others wonder whether too much emphasis has been placed on systems and technologies, while cutting-edge, are not yet fully developed, administratively sound, or, from a campus viewpoint, simple to use.

Graduate Education

The 104th Congress has not been especially kind to the Title IX graduate education aid programs. Funding for Title IX programs were reduced, eliminated, or frozen in the past two fiscal years. Many in the higher education community believe this reauthorization presents a chance to rethink the financing of graduate and professional education in creative ways attractive to Members of Congress and helpful to graduate schools and their students.

Remedial Education

Title IV funding for students in remedial education may develop into a major reauthorization debate. Some in Congress already have called for an end to such funding stating that elementary and secondary schools must better prepare potential postsecondary students. Others suggest that a high school diploma or its equivalent should be a minimal standard before Title IV funding is awarded.

Immigration

It is unclear whether or not the Congress will clear legislation this year on financial aid benefits and the conditions for receipt of Title IV funds for legal immigrants. This issue may emerge in reauthorization debates no matter the outcome of immigration legislation in the 104th Congress.

Affirmative Action

Recent Federal judicial decisions, legislation, and campaign controversies all point to the possibility that HEA reauthorization legislation may be the vehicle to attempt to resolve the issue of affirmative action, at least, as far as affirmative action legislation and voluntary measures affect postsecondary institutions.

The Unexpected

The above only are some reauthorization factors. No doubt others will surface into major concerns as the legislative process and the elections unfold. Some of these surprise issues may develop into ones where major effort is expended to the benefit of students and the federal assistance programs. Others may surface only to become sideshows or divert attention from more legitimate concerns and problems.

Subpart Four

Current and Future NASFAA Reauthorization Activities

Reauthorization provides an opportunity for NASFAA and its members to help shape both the debate and the final legislation. It still is early in the process, but events and deadlines will come quickly. NASFAA will assist its membership in developing recommendations that best serve the needs of students and the needs of the financial aid profession.

We face formidable challenges which must be addressed cooperatively by the entire postsecondary community to maximize desired outcomes. NASFAA will make a concerted effort to obtain strong input from its members to develop a comprehensive set of reauthorization recommendations. Simultaneously, NASFAA will do its best to work with the presidentially-based associations and with all other parties engaged in the process to achieve community consensus on the vast majority of the issues that will be considered and debated.

Reauthorization Task Force

NASFAA's Reauthorization Task Force started its work in January when the Task Force developed preliminary plans to consult with NASFAA members and NASFAA regional and state associations. NASFAA sent a letter to state and regional association presidents alerting them of the work of the Task Force and asking for help in publicizing its work and the need for member recommendations. A similar article has appeared in the *NASFAA Newsletter*.

Through a series of conference calls and a July meeting, the Task Force completed a preliminary review of the HEA to identify those portions of the Act that most aid administrators would agree need modification. The NASFAA staff will seek member comments through the *NASFAA Newsletter* and other publications. NASFAA will consult with members for their best thoughts on needed HEA changes to better serve students and schools. In August, we will announce the schedule of a series of NASFAA reauthorization hearings to be held around the nation this Fall. The Task Force has a demanding schedule of meetings and conference calls scheduled for this Fall and Winter to complete its work in time for further member review and final action on its work

product by NASFAA's Board of Directors. NASFAA staff will turn such recommendations into legislative language with justifications for the changes in the HEA in time for transmittal to the Congress in the Spring of 1997.

Task Force Membership

NASFAA's Reauthorization Task Force looks forward to evaluating all recommendations for change in the Higher Education Act. A diverse group of individuals, coming from across the nation, and from all sectors of NASFAA's membership, the Reauthorization Task Force is committed to consulting with our members with every possible means of communication and at every opportunity. The Task Force encourages all NASFAA members to assist it in its work on behalf of students and the profession.

The members of the Task Force are as follows:

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Larry Zaglaniczny, Ken McInerney, and Marty Guthrie are the NASFAA staff liaisons to the Task Force.

Communicating with the Reauthorization Task Force

For NASFAA Task Force and staff reauthorization activities the prime Internet ID is: **rtf@smtp.nasfaa.org** The NASFAA office phone number is 202/785-0453. One prime area for information about reauthorization activities is NASFAA's PEN. Information, data, publications and news may be found in PEN by accessing the Student Aid News section in the Main Menu, going to NASFAA documents, and finding Reauthorization Activities.

To expedite NASFAA's work in compiling your recommendations, we ask that you do several things.

- Identify the problem area or specific provision of the Higher Education Act you'd like to change. Use the NASFAA copy of the HEA supplied to every member in June 1994 with the January 1995 update. Identifying the HEA section number and page number in NASFAA's copy of the law would be extremely useful.
- State your solution(s) or recommendation(s) as clearly as possible and write your recommendation in legislative language if you can.
- Justify or explain your legislative solution.
- Send us any idea, even if you think others may not agree. All communications and recommendations are confidential.
- You may be fatigued and overworked, but the opportunity to comprehensively change the law only comes every five years. Tell us what should be changed so that you, your students, or school doesn't have to live with that aggravating policy, procedure, or regulation for another five years.
- This is your Task Force and your professional organization. We need to hear from you so that NASFAA may best represent you and your colleagues in the reauthorization process.
- The NASFAA Board and officers, its Task Force, and staff are ready to assist you in the reauthorization process in any practical and achievable way possible.

To make formal or informal suggestions or recommendations to the task force please use some type of electronic communication, such as NASFAA's PEN network, Internet communication, or send us a computer disk or floppy. If you do not have access to the suggested electronic formats, submit your recommendations on paper. Again, all communications and recommendations are confidential.



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